

SUNSHINE REFORM TASK FORCE MEETING MINUTES

Thursday, March, 1 2007
6:00pm – 8:30pm

City Hall, W118-119

Present: Ed Rast, Strong Neighborhoods Initiative PAC; Nanci Williams, San José/Silicon Valley Chamber of Commerce; Dan Pulcrano, Silicon Valley Leadership Group; Bobbie Fischler, League of Women Voters; Bob Brownstein, South Bay Labor Council; Dave Zenker, Falls Creek Neighborhood Association; Virginia Holtz, Willow Glen Neighborhood Assoc.; Joan Rivas-Cosby, Five Wounds/Brookwood Terrace Neighborhood Advisory Committee; Margie Matthews, Former Councilmember; Mary Ann Ruiz, Parks and Recreation Commission; Karl Hoffower, Citizens Commission on Human Rights; Brenda Otey, At Large-Representative; Edward Davis, Orrick Law Firm (Legal Counsel).

Absent: Ken Podgorsek, United Neighborhoods of SCC; Susan Goldberg, San José Mercury News; Judy Nadler, Markkula Center for Applied Ethics.

Staff: Lee Price, City Clerk; Dottie Disher, Office of the City Clerk; Lisa Herrick, Senior Deputy City Attorney; Dan McFadden, Interim Deputy City Manager; Eva Terrazas, Office of the City Manager/Redevelopment Agency; Sheila Tucker, Office of the City Manager; Tom Manheim, Office of the City Manager.

I. Approval of February 15, 2007 Meeting Minutes

Upon a motion by Mary Ann Ruiz, seconded by Dave Zenker, the February 15, 2007, minutes were approved as amended with four abstentions, Task Force members Bobbie Fischler, Nanci Williams, Margie Matthews.

Item C.2 of the February 15, 2007 minutes was amended to: 1) include “within one calendar year, “ and; 2) reflect Task Force member Ruiz’s dissenting opinion that the threshold of \$1,000,000 is too high for items of significant public interest and should be lowered to \$750,000.

II. Comments from Chair

Chair Rast noted the Sunshine Reform Task Force’s next meeting will focus on wrap-up discussions on closed session, and outstanding Public Meeting discussion items: stacking effect (e.g., policy body reporting to a policy body,) items of significant public interest, and City Council memos that provide new recommendations.

III. Review of Meeting Material

Staff provided an overview of the documents for the meeting and noted the correspondence related to police records would be distributed when the item was agendaized for discussion.

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IV. Discussion on Public Meeting Provisions, Major Public Subsidy Provisions

Task Force member Bob Brownstein presented his proposal to reform the public process for major public subsidies. Staff provided an overview of its proposed methodology to implement a pilot cost-benefit analyses program for projects seeking public funding in response to the Mayor's Transition Committee recommendations.

Upon a motion by Bob Brownstein, seconded by Bobbie Fischler, the Task Force approved to adopt "in concept" Bob Brownstein's proposal amended to: 1) add "Commissions" and "Council Committee" to Recommendation #2 allowing a first hearing on a proposed subsidy to also be heard by a Council Committee or City Commission, and 2) include non-economic benefits (non-monetary) in the cost benefit analysis.

City and Redevelopment Agency staff will return in April 2007 with an analysis of the anticipated impact to current projects and recommendations for the Task Force's consideration (Task Force members Williams and Pulcrano casting dissenting votes. Williams stated concerns that the proposal will limit the City's ability to respond to business opportunities. Pulcrano stated that while in favor of more openness and sunshine on public subsidies, additional time was needed to refine the specifics of Brownstein's proposal.

Public Comments:

Jaime Alvarado, resident of East San José, spoke in favor of openness, honesty, and adequate time for public review of decisions related to major public subsidies. Alvarado also noted a balance is needed between being nimble and providing an opportunity for public review.

Tom Fink, 50 year resident and retired VTA Driver, spoke in favor of Brownstein's proposal because it broadens the scope of staff's proposal and provides a mechanism for accountability.

Efrain Coria, Chief of Operations of Gardner Family Health Network, spoke in support of Brownstein's proposal specifically as it relates to evaluating the impacts of projects on community services.

Janelle Ishida, resident of San José, spoke in favor of Brownstein's proposal to create more integrity in the process on decisions related to major public subsidies and to ensure our tax dollars are used wisely.

Aurelia Sanchez, resident of San Jose, spoke in favor of Brownstein's proposal and emphasized the importance of honesty and government accountability.

Tim Frank, Senior Policy Advisor, Sierra Club called attention to the explosive growth in public subsidies to support private projects. As these subsidies compete with programs that

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are proven to provide returns to the community, management must be held accountable for measuring returns on private development investments.

Robert Lindley, Second Vice President of the Federation of Retired Union Members and Delegate to the South Bay Labor Council spoke in favor of Brownstein's proposal and noted it was disturbing to hear staff's comments related to lacking the time, staff, ability to provide comprehensive cost benefit analysis, or to provide a response tonight to Mr. Brownstein's proposal.

Mark Fife, concerned citizen and Community Activist, spoke in favor of Brownstein's proposal noting more light should be shed on how tax payers' money is spent and the City needs to balance community services and subsidies.

Father Bill Leininger, Dioceses of San José noted his primary concern is the working people in San Jose. Father Leininger noted he felt excluded from development in San Jose and encouraged the Task Force to promote and integrate values that consider the impact to the under privileged in our City.

V. Public Information Subcommittee Recommendations, Item E. Calendaring.

- A. Dave Zenker provided an overview of the recommendations from the 2/15/07 meeting focusing specifically on Item E. related to recommendations for *Calendars of Certain Officials*. The Task Force discussed a proposal put forward by Task Force member Brownstein related to exemptions to the release of public information.

Upon a motion by Dave Zenker, seconded by Virginia Holtz the Task Force unanimously approved the following Public Information recommendations related to calendars of certain public officials:

- 1. Disclose calendars every Monday by noon from the previous seven days.**
- 2. Content would include names, the titles of the individual, the organization they represent and a general statement of what issues were discussed.**
- 3. Officials are encouraged to record unscheduled or impromptu meetings of a material nature with interested parties in any matter coming before a policy body for a vote in which the matter under consideration is discussed.**
- 4. Allow five exemptions to release of information: *personal activities, attorney client privilege, whistle blowers, and those who fear retaliations, in addition to economic development and city staff recruiting.***
- 5. The calendaring requirements would apply to the City Manager, the City Attorney, the City Clerk, the Redevelopment Agency Executive Director, the Chief's of Staff of the Mayor and City Council, and the following Department Heads: the Airport Director, Budget Director, Chief Development Officer, Emergency Services Director, Environmental Services Director, Fire Chief, Finance Director, General Services Director, Housing Director, Information**

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Technology Director, Library Director, Parks Director, Planning Director, Police Chief, Public Works Director, Retirement Director, and the Transportation Director. The positions that are exempt from the calendaring requirements include the City Auditor, Independent Police Auditor, Employee Relations Director, and Human Resources Director.

- 6. Require the Mayor, City Council and the six Council appointees to publish their calendars to the website on a weekly basis as stated above. All other individuals stated above shall not be required to publish their calendars to the City's website, but their calendars shall still be considered public records and shall be promptly available upon request by a member of the public.**

Public Comment: James Chadwick expressed concerns with the definition of "Proprietary City Business," and noted one of the Reed Reforms which was adopted and approved by the council was to disclose the calendars of the Mayor and Councilmember's (period). No exemptions, no qualifications.

B. Recommendations G. Additional Public Outreach

Item deferred to 3/15/07 meeting.

VI. Status Report to City Council on Proposed Sunshine Reform Ordinance

Staff noted a draft report was currently under review by the Task Force Chair and Vice-Chair and the report will be included in the March 15, 2007 agenda packet for discussion and approval.

Public Comment: Dean Munro, Mayor's Office, requested that the status report include a schedule with milestones for upcoming work products.

VII. Upcoming Agenda and Work Plan

The next meeting will include wrap discussions on Public Information, Closed Session, and Public Meeting provisions, and approval of the Task Force's status report to the City Council on Phase 1 recommendations, outstanding issues, and schedule.

VIII. Public Comment:

Brian Schmidt, Committee for Green Foothills, recommended the City make preliminary EIRs (Environmental Impact Report) publicly available, and to evaluate Santa Clara County's policy switch from developer-owned to government-owned preliminary draft EIR.

The Task Force adjourned the March 1, 2007 meeting at 8:52 p.m.